

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

UNITED STATES OF AMERICA) No. 2-14-00001
v.)
MARK ANDREW RANDOLPH)

ORDER

The defendant is charged in this case in an information filed on May 2, 2013, with using, carrying and brandishing a firearm during and in relation to a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A).

On May 5, 2014, a "Waiver of Indictment" signed by the defendant and his counsel in the Eastern District of Tennessee was filed. It is not clear who submitted the "Waiver of Indictment" for filing in this Court. The attorney who also signed the waiver represents the defendant in the Eastern District of Tennessee where he is charged in an 11 count indictment. See United States v. Randolph, 3-13-00140 (E.D. Tenn.).

Although the "Waiver of Indictment" indicates that the defendant waived "in open Court" prosecution by Indictment and consented that the proceeding may be by Information instead of by Indictment, the defendant has not appeared in this Court, much less executed any waiver "in open Court."

A waiver of indictment must be executed in open court in accord with Rule 7(b) of the Federal Rules of Criminal Procedure. Therefore, the "Waiver of Indictment" filed in this case is of no effect.

It is so ORDERED.

JULIET GRIFFIN
JULIET GRIFFIN
United States Magistrate Judge